

**FREDERICK COUNTY LIQUOR BOARD**  
***Public Meeting Minutes***  
***Monday, December 8, 2014***

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Those Present: Mr. Dick Zimmerman, Chairman  
Mrs. Maggi Hays, Board Member  
Mr. Rick Stup, Board Member  
Mrs. Linda B. Thall, Sr. Assistant County Attorney  
Mr. Harold C. DeLauter, Alcoholic Bev. Inspector  
Mr. Bob Shrum, Alcoholic Bev. Inspector  
Ms. Kathy L. Vahle, Administrator  
Mrs. Sandra Rees, Administrative Specialist IV

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A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9 am by Chairman Zimmerman.

1. Decision Required: New

RE: Li Guo Chen and Ding Yi  
Wang for the use of  
Asian Bistro Inc.  
t/a Asian Bistro  
11670 Old National Pike  
Frederick, MD 21701

Class B, On Sale, Beer and Light Wine

Ms. Vahle swore in the applicants (See Sign In Sheet). Inspector DeLauter stated they are compliant. Chairman Zimmerman asked the applicants if they had taken the Alcohol Awareness course. The applicants stated they did take the course. Chairman Zimmerman told the applicants about the ABLE Training course. Commissioner Stup cautioned the applicants that if they want to have entertainment they must request approval from the Board. The applicants stated they were not having any entertainment.

**MOTION:** Mrs. Hays made a motion for approval of the license.

**SECOND:** Mr. Stup seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mrs. Hays – Aye  
Mr. Stup – Aye  
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

2. Decision Required: Transfer

**TRANSFER FROM:**

RE: Joseph Kern, Colleen  
Hunter, Horance Dawson III  
and Kay Stull  
for the use of OG of  
Frederick, Inc.  
t/a The Olive Garden Italian  
Restaurant  
5609 Spectrum Dr.  
Frederick, MD 21703

Class B, On Sale, Beer, Wine and Liquor

**TRANSFER TO:**

RE: Joseph Kern, Colleen  
Hunter and Kay Stull  
for the use of OG of  
Frederick, Inc.  
t/a The Olive Garden Italian  
Restaurant  
5609 Spectrum Dr.  
Frederick, MD 21703

Class B, On Sale, Beer, Wine and Liquor

Ms. Vahle swore in the applicants (See Sign In Sheet). Ms. Vahle stated that Colleen Hunter could not appear because she was in her last trimester of her pregnancy and had a POA approved by the Board. Ms. Vahle stated for the background check that Mrs. Hunter had been on several licenses throughout the State and she found in Charles County in March of 2014 there was a compliance check, they were found Guilty of Sales to Minors, three years probation, \$500 fine and \$50 fine to the server. In Montgomery County October 2012 and September 2014 they were found Guilty for Sales To Minors. This is all that was received back at this time. Inspector DeLauter stated they are compliant. There are no other prior violations.

**MOTION:** Mr. Stup made a motion for approval of the license.

**SECOND:** Mrs. Hays seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mr. Stup – Aye  
Mrs. Hays - Aye  
Mr. Zimmerman - Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

3. Decision Required: New

RE: Leslie Lent and Lisa Wehking  
for the use of ALC Hospitality  
Company  
t/a Pie Five Pizza Company  
200-C Shorebird St.  
Frederick, MD 21701  
Class B, On Sale, Beer Only

Ms. Vahle swore in the applicants (See Sign In Sheet). She also stated there was an application for an outside patio that she gave to the Board for review. Inspector Shrum stated they are in compliance, also the patio area is compliant. The Fire Marshal approved the patio. Chairman Zimmerman asked the applicants if they had taken the Alcohol Awareness training and the applicant stated that all the employees in the restaurant had taken the training. Commissioner Stup reminded the applicants of the ABLE training on May 13, 2014. Chairman Zimmerman asked that everyone attend the training.

**MOTION:** Mrs. Hays made a motion for approval of the license and also the outside patio.

**SECOND:** Mr. Stup seconded the motion and the applicants are bound by their testimony.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mrs. Hays – Aye  
Mr. Stup – Aye  
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

3. Decision Required: New

RE: Andrew Rogers and Gregory  
Forsythe  
Rex's Downtown Grill LLC.  
t/a Rex's Downtown Gill  
57 East Patrick St.  
Frederick, MD 21701  
Class B, On Sale, Beer Only

Ms. Vahle swore in the applicants (See Sign In Sheet). The pending items are: the Occupancy Permit, the Fire Marshal, the Health Department, the Retail Sales Tax License and the Inspector's report. The applicants stated they are still under construction and want to open the beginning of March. Ms. Vahle stated if the license is not issued by the end of February it cannot be issued until the end of May due to renewal time. The applicant stated they should have their Occupancy certificate by the middle of February. Inspector Shrum stated they are not ready to open yet. Chairman Zimmerman asked if they had taken the Alcohol Awareness training. The applicant stated they both took the training. Commissioner Stup reminded the applicants if they are going to have outdoor seating or entertainment they need to notify the Board.

**MOTION:** Mr. Stup made a motion for a conditional approval for February 23, 2015 in accordance with the application and the testimony of the applicants.

**SECOND:** Mrs. Hays seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mr. Stup – Aye  
Mrs. Hays – Aye  
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

4. Decision Required: Violation

RE: RE: Michael D. Allen  
for the use of Joey &  
Johnny's LLC  
t/a Manny Mart  
119 South Market Street  
Frederick, MD 21701  
Class A Off Sale, Beer  
License Number 11A 3104 SU  
FCLB Case: 8106

The Board held a violation hearing for the charge of selling alcoholic beverages to a minor. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). They pled Not Guilty. The clerk stated she was new and did not have any training for identifying IDs. Also that she did not have her glasses on and could not read the license that was presented to her.

Finding of Fact: The Board found that the licensees either directly or through an employee knowingly sold an alcoholic beverage to a minor, Sierra Coulbourne, on June 4, 2014.

Finding of Fact: The Board found that the licensees either directly or through an employee did permit the possession of an alcoholic beverage by a minor, Sierra Coulbourne, on June 4, 2014.

Conclusion of Law: The Board found the licensees guilty of violating Section 12-108(c) of Article 2B of the Maryland Annotated Code and Section 615 (a) and (g) of the Board's Regulations.

Ms. Vahle stated the license was issued July 6, 2012, November 19, 2012, the license was not posted and a warning was given. November 18, 2013, selling alcoholic beverages to a patron outside the licensed establishment with a \$200 fine. There was a reconsideration hearing on January 6, 2014, the Board did not change their decision. May 5, 2012, found Not Guilty of selling alcoholic beverages to an intoxicated person. June 13, 2014 picked up the license late, \$300 fine with a No Contest letter. August 25, 2014, Sales to Minors, \$500 fine and a 30 day suspension that was suspended with 6 months probation. Scott Hartinger, Attorney,

asked that the Board consider the violations were earlier in the year and to take into consideration that there has been training of the employees since that time and the issues are now resolved. Mr. Hartinger also asked that if there was a suspension, that it be in January as it would have a negative impact on the store and the employees who work there and to defer as much as possible any fines.

**MOTION:** Mrs. Hays made a motion for a fine of \$1,500 and a suspension of 30 days beginning January 31, 2015 with 1 day added for today's conviction.

The motion did not receive a second.

Chairman Zimmerman asked Mr. Hartinger to explain what measures that have been taken to prevent this from occurring in the future. Mr. Allen, the licensee, stated he has hired an older person to manage the store that is more responsible as he has managed stores for years in Rockville and Gaithersburg. He has changed his hiring methods and has the ID book behind the counter. He has a clock that shows the year so they can check the birth date.

**MOTION:** Mr. Stup made a motion to suspend the license for 7 days immediately and a fine of \$1,500 and the 30 days probation period from the previous offense to remain in effect through February 26, 2016.

**SECOND:** Chairman Zimmerman seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mr. Stup – Aye  
Mr. Zimmerman – Aye  
Mrs. Hays abstained

The vote was unanimous. **Aye – 2 Nay – 0**  
**(Motion Passed)**

4. Decision Required: Violation

RE: Francisco Reluzco

for the use of D & F Auto  
Service, LLC  
t/a Rosehill Service  
Center  
1561 Opossumtown Pike  
Frederick, MD 21702  
Class A, Beer and Wine  
License Number 11AW 1213 SU  
FCLB Case Number: 8107

The Board held a violation hearing for the charge of selling alcoholic beverages to a minor. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). They pled Not Guilty. Officer Skelly stated the clerk, Ms. Dill, was helping someone find their wallet and did not ask for an ID. Mr. Reluzco stated he is always notified when a sale is made and this time he was not notified. He could not pull up a video tape because it was too late. Also Ms. Dill did not notify him that this had happened. Ms. Dill stated she did not remember selling alcohol to a minor. Chairman Zimmerman stated it was unfortunate that the undercover minor, Skylar Werneth and Officer Geiser did not appear, but the Board can consider what was said in the Police Report as relevant as finders of fact.

Finding of Fact: The Board found that the licensees either directly or through an employee knowingly sold an alcoholic beverage to a minor, Skylar Werneth, on April 9, 2014.

Finding of Fact: The Board found that the licensees either directly or through an employee did permit the possession of an alcoholic beverage by a minor, Skylar Werneth, on April 9, 2014.

Conclusion of Law: The Board found the licensees guilty of violating Section 12-108(c) of Article 2B of the Maryland Annotated Code and Section 615 (a) and (g) of the Board's Regulations.

Ms. Vahle stated the license was issued July 2, 2008, on July 19, 2011, Sales to Minors, fine of \$400, September 8, 2014, Sales to Minors, fine of \$200 with 15 days suspension, suspended with 6 months probation.

**MOTION:** Mr. Stup made a motion to suspend the license for 7 days immediately and a fine of \$800. In addition, the prior 15 day suspension, which had been suspended with 6 months probation, would remain in effect.

**SECOND:** Mrs. Hays seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mr. Stup – Aye  
Mrs. Hays – Aye  
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

5. Decision Required: Violation

RE: James E. Summers, Jr.  
for the use of James E. Summers,  
Enterprises, Inc.  
t/a TJ's Roadhouse  
11037 Liberty Road  
Frederick, MD 21701  
Class B, On Sale, Beer, Wine & Liquor  
License Number 11BL 1185  
FCLB Case # 8056

The Board held a violation hearing for the charge that our inspector, while doing a routine inspection, witnessed patrons drinking alcoholic beverages on an outside patio that was not approved by the Board. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). They pled Not Guilty. Ms. Vahle stated the request for a patio came in on August 16, 2012 and the Board approved it on August 20, 2012 pending the final approval of Zoning, Health Department, Fire Marshal, Use and Occupancy permit and Inspector's Report. She stated there was never a final approval. Mr. Summers was contacted on numerous occasions but never obtained the final approval until November 18, 2014. Inspector DeLauter stated he observed four individuals drinking beer on the patio without approval. He stated he had talked to Mr. Summers and several bartenders and told them not to allow anyone to drink alcohol on the patio until approved. Ms. Colby Hubble stated she had a meeting with the county regarding this issue to try and sort out what seemed to be some confusion about this patio. They approved the Use and Occupancy and then the Liquor Board issued a letter of approval. She stated it was a misunderstanding as to whether it was approved or not and wanted to resolve this



issue. Mr. Summers stated when he got his final approvals he wanted his patio for a smoking area.

Finding of Fact: The Board did not approve the request to use the outside patio prior to August 22, 2014.

Conclusion of Law: The Board found the licensees guilty of violating section §5.26 of the Board's Regulations.

Ms. Vahle stated the license was issued August 30, 2011, May 17, 2012 they were late to pick up renewal and paid a \$50 fine.

**MOTION:** Mrs. Hays made a motion for a \$200 fine.

**MOTION:** Mr. Stup made a motion to amend the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** Mr. Stup stated under section 10-401(a)3 (ii) that there was not any willful failure to comply. Having dealt with both sides of the permit process, and given the fact that there is a clean record he proposed an amendment to the motion that the fine be suspended because they met with County and have their Use and Occupancy and there is no serious violation record.

**SECOND:** Mrs. Hays seconded the motion as amended.

**VOTE:** Mr. Stup – Aye  
Mrs. Hays – Aye  
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

6. Decision Required: Violation

RE: Robert J. Kannor  
for the use of Viniferous,  
LLC  
t/a Viniferous  
227 North Market Street  
Frederick, MD 21701  
Class A, Beer and Light Wine

SUWT

License Number 11AW 2800

FCLB Case Number: 7475

The Board held a violation hearing for the charge of selling alcoholic beverages to a minor. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). They pled Not Guilty. Mr. Constantine, the minor stated the clerk stated "you are 21, right?" and he responded with "I have my ID on me." Mr. Constantine went to give it to him and the clerk said, "if you are 21 it is alright." Mr. Kannor stated he was distracted when the undercover Police Officer started playing with the dog and Mr. Constantine did say he was over 21 twice. Mr. Kannor has posted signs at the counter and looked at purchasing the ID scanner. He has attended the ABLE training and has been entering everyone into the computer after he checks the IDs.

Finding of Fact: The Board found that the licensee either directly or through an employee knowingly sold an alcoholic beverage to a minor, Nicolas Gene Constantine, on January 9, 2014.

Finding of Fact: The Board found that the licensee either directly or through an employee did permit the possession of an alcoholic beverage by a minor, Nicolas Gene Constantine, on January 9, 2014.

Conclusion of Law: The Board found the licensee guilty of violating Section 12-108(c) of Article 2B of the Maryland Annotated Code and Section 615 (a) and (g) of the Board's Regulations.

Ms. Vahle stated the license was issued December 31, 2009; on April 18, 2011 there was a Sale to Minors, \$500 fine paid.

**MOTION:** Mr. Stup made a motion for a \$1,000 fine and 30 day suspension, both suspended with 6 months probation.

**SECOND:** Mrs. Hays seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mr. Stup – Aye  
Mrs. Hays – Aye

Mr. Zimmerman - Aye

The vote was unanimous. **Aye – 3 Nays – 0**  
**(Motion Passed)**

7. Decision Required: Approval of the Meeting Minutes for 11-3-14 and 11-10-14. Mr. Stup stated there was a correction for the Staff Minutes for 11-3-14 on page 2, case #4, in the middle, correct the spelling of the name from Cobb to Kolb. Staff Meeting Minutes for 11-10-14 page 3 in the 4th sentence take out “right now” and put in “currently”. Chairman Zimmerman stated for the Staff Meeting Minutes for 11-3-14 on the 4th page, he wanted to clarify on paragraph 8, in the 2nd sentence, change “class” to “his FCPS classes.” And on page 5 correct “here say” to “hearsay”.

**MOTION:** Mr. Stup made a motion to approve all four sets of Minutes as amended.

**SECOND:** Chairman Zimmerman seconded the motion.

**FURTHER DISCUSSION**

**ON THE MOTION:** There was no further discussion on the motion.

**VOTE:** Mr. Stup – Aye  
Mr. Zimmerman – Aye  
Mrs. Hays was not present for this vote.

The vote was unanimous. **Aye – 2 Nays – 0**  
**(Motion Passed)**

8. **Rosehill Service Station** - Chairman Zimmerman stated he would like to communicate to Captain Keckler the undercover Policeman and the minor did not appear and that the summons was sent a while ago. He would like some feedback because the meeting with Captain Keckler was a week ago regarding notification if the witnesses are not going to appear. Ms. Vahle stated she would send Captain Keckler an email and would copy the Board on it.
9. **Waverly Beer and Wine** – Inspector Shrum stated he checked the ID scanner and found that with a fake ID it just reads the barcode and it tells you the expiration and the date of birth. He does not want the Liquor Board to misinform the public because the ID scanner just reads the barcode. Ms. Vahle stated it does not protect you because if you are not looking at who is presenting

the ID it can still be a violation. Inspector Shrum stated you still have to do your job and look at the person presenting the ID.

The meeting was adjourned at 11:45AM.

Respectfully submitted,

Kathy Vahle, Administrator  
FREDERICK COUNTY LIQUOR BOARD

Prepared by Sandra Rees